

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Robert Buyan on February 12, 2010.

The application has been amended as follows:

IN THE CLAIMS:

Claim 25:

Line 7: "A. providing a bymixer" has been changed to --A) providing a bymixer--.

Line 28: "B. connecting the inflow" has been changed to --B) connecting the inflow--.

Line 33: "C. using the sampling" has been changed to --C) using the sampling--.

Claim 29:

Line 3: "D. determining at least one" has been changed to --D) determining at least one--.

Claim 34:

Line 3: "D. changing the size" has been changed to --D) changing the size--.

Claim 35:

Line 4: "D. varying the degree" has been changed to --D) varying the degree--.

***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be "material to patentability as defined in 37 CFR 1.56."

This objection still stands from the non-final rejection mailed June 3, 2009 and was not addressed in Applicant's remarks filed December 3, 2009. In the oath and declaration filed on November 14, 2005, Applicant has only agreed to attest to section A of 37 CFR 1.56, instead of complying with the entirety of 37 CFR 1.56. Appropriate correction is required.

3. The following is an examiner's statement of reasons for allowance:

The prior art made of record does not disclose or teach a bymixer device having the specific structure and relationship as claimed in claims 1 and 25 including a flow divider, a flow combiner, a bypass flow channel having a flow restrictor, mixing chamber with extensible and contactable tubing for varying the volume, and a sampling apparatus.

Art Unit: 3771

The prior art made of record does not disclose or teach a bymixer device having the specific structure and relationship as claimed in claim 16 including a first and second bymixers each having a flow divider, a flow combiner, a bypass flow channel having a flow restrictor, mixing chamber, and a sampling apparatus.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Annette F. Dixon whose telephone number is (571) 272-3392. The examiner can normally be reached on Monday thru Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Annette F Dixon  
Examiner  
Art Unit 3771

/Annette F Dixon/  
Examiner, Art Unit 3771

/Justine R Yu/  
Supervisory Patent Examiner, Art Unit 3771